

A G E N D A

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METRO

Agenda

MEETING: METRO COUNCIL REGULAR MEETING
DATE: August 5, 2004
DAY: Thursday
TIME: 2:00 PM
PLACE: Metro Council Chamber

CALL TO ORDER AND ROLL CALL

1. INTRODUCTIONS

2. CITIZEN COMMUNICATIONS

3. BLUE LAKE EVENT SPONSORSHIP RECOGNITION Klein

4. TRANSITION SAVINGS AND COSTS Dow

5. CONSENT AGENDA

5.1 Consideration of Minutes for the July 22, 2004 Metro Council Regular Meeting.

6. ORDINANCES- FIRST READING

6.1 **Ordinance No. 04-1055**, For the Purpose of Amending the Regional Solid Waste Management Plan to impose a Moratorium until December 31, 2005, on applications for and authorizations of new solid waste transfer stations within the Metro Region; and Declaring an Emergency.

6.2 **Ordinance No. 04-1056**, For the Purpose of Amending Metro Code Chapter 5.01 to impose a Moratorium until December 31, 2005, on applications for and authorizations of new solid waste transfer stations within the Metro Region; and Declaring an Emergency.

7. RESOLUTIONS

7.1 **Resolution No. 04-3474**, For the Purpose of Allocating a Portion of the Multnomah County Local Share Funds from the Metro Open Spaces Bond In 2004. Monroe

**8. EXECUTIVE SESSION HELD PURSUANT TO ORS 192.660(1)(e).
DELIBERATIONS WITH PERSONS DESIGNATED TO NEGOTIATE
REAL PROPERTY TRANSACTIONS.**

- 8.1 **Resolution No. 04-3473**, For the Purpose of Authorizing the Chief Operating Officer to Purchase Property on Hogan Butte in the East Park Buttes/ Boring Lava Domes Target Area, Subject to Unusual Circumstances.

9. CHIEF OPERATING OFFICER COMMUNICATION

10. COUNCILOR COMMUNICATION

ADJOURN

Television schedule for August 5, 2004 Metro Council meeting

Clackamas, Multnomah and Washington counties, and Vancouver, Wash. Channel 11 -- Community Access Network www.yourtvtv.org -- (503) 629-8534 Thursday, August 5 at 2 p.m. (live)	Washington County Channel 30 -- TVTV www.yourtvtv.org -- (503) 629-8534 Saturday, August 7 at 11 p.m. Sunday, August 8 at 11 p.m. Tuesday, August 10 at 6 a.m. Wednesday, August 11 at 4 p.m.
Oregon City, Gladstone Channel 28 -- Willamette Falls Television www.wftvaccess.com -- (503) 650-0275 Call or visit website for program times.	West Linn Channel 30 -- Willamette Falls Television www.wftvaccess.com -- (503) 650-0275 Call or visit website for program times.
Portland Channel 30 (CityNet 30) -- Portland Community Media www.pcatv.org -- (503) 288-1515 Sunday, August 8 at 8:30 p.m. Monday, August 9 at 2:00 p.m.	

PLEASE NOTE: Show times are tentative and in some cases the entire meeting may not be shown due to length. Call or check your community access station web site to confirm program times.

Agenda items may not be considered in the exact order. For questions about the agenda, call Clerk of the Council, Chris Billington, (503) 797-1542. Public Hearings are held on all ordinances second read and on resolutions upon request of the public. Documents for the record must be submitted to the Clerk of the Council to be considered included in the decision record. Documents can be submitted by e-mail, fax or mail or in person to the Clerk of the Council. For additional information about testifying before the Metro Council please go to the Metro website www.metro-region.org and click on public comment opportunities. For assistance per the American Disabilities Act (ADA), dial TDD 797-1804 or 797-1540 (Council Office).

Agenda Item Number 4.0

TRANSITION SAVINGS AND COSTS

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Agenda Item Number 5.1

Consideration of Minutes of the July 22, 2004 Regular Council meeting.

Metro Council Meeting
Thursday, August 5, 2004
Metro Council Chamber

MINUTES OF THE METRO COUNCIL MEETING

Thursday, July 22, 2004
Metro Council Chamber

Councilors Present: David Bragdon (Council President), Susan McLain, Rod Monroe, Rex Burkholder, Carl Hosticka, Rod Park, Brian Newman

Councilors Absent:

Council President Bragdon convened the Regular Council Meeting at 2:01 p.m.

1. INTRODUCTIONS

There were none.

2. CITIZEN COMMUNICATIONS

Carolyn Jones, 2818 S. Poplar Way, Lake Oswego, OR said land use laws must be applied in a consistent and uniform way here in Oregon. Approximately two years ago she had attended several meetings concerning environmental resource protection and overlay areas. At that time she became aware that Lake Oswego had been excluded. She questioned that and asked that it be included. Recently she had become aware that even though the lake was included at that time it now was excluded which meant that the rich were privileged in building on to their properties. The rest of the population had to pay thousands of dollars in consulting fees if they lived in an overlay protection, which the rich were excluded from. Her primary problem was getting access to the logic that supported that decision that excluded Lake Oswego. She had called and had a lengthy discussion with someone who gave them a number where no one answered. She had tried numerous times. About a month ago she came into the office and was told because she didn't know the key word they couldn't find anything on it but had taken her name and number and said they would forward information to her in the mail. To date nothing had come. Her primary question today was how did she get access to the minutes that supported that decision. Councilor Newman clarified that she was talking about the lake of Lake Oswego being exempted from the Goal 5 inventory. Ms. Johnson said the city was building around the lake and destroying the environment with building and development around the lake.

Council President Bragdon explained that Metro had been going through an effort to identify where natural resources were. They do work with the local jurisdictions. The Council had adopted an inventory that indicated where water front resources were in 2002. Ms. Johnson said the illogical reason that was given was that the lake was a man made lake. For the record, the polluted Tualatin River drained into the lake, which then drained into the Willamette River so it was not a separate system. The man made part of it was totally illogical and should be set aside. Council President Bragdon said they would have to ask staff to track down when the decision was made. They would get back to her. They would get her an answer to that question. Ms. Johnson said if no response came, she would be back to Council. Council President Bragdon said that they were here every Thursday and they would get her an answer to her question.

Councilor Park addressed the issue. In his district they had Interlachen and Blue Lake. He was not sure how those two lakes were designated. He thought it would be something to look at in terms of those areas to see if they were designated similarly.

3. CONSENT AGENDA

3.1 Consideration of minutes of the July 15, 2004 Regular Council Meetings.

Motion:	Councilor Newman moved to adopt the meeting minutes of the July 15, Regular Metro Council.
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Vote:	Councilors Burkholder, McLain, Monroe, Newman, Hosticka and Council President Bragdon voted in support of the motion. The vote was 6 aye/1 abstain, the motion passed, Councilor Park abstained from the vote.
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4. RESOLUTIONS

4.1 Resolution No. 04-3476, For the Purpose of Amending the 2004-07 Metropolitan Transportation Improvement Program (MTIP) to Transfer Funds from the Hall Boulevard Bike Lanes and Intersection Turn Lanes Project to the Rose Biggi Road Extension Project.

Motion:	Councilor Park moved to adopt Resolution No. 04-3476.
Seconded:	Councilor Hosticka seconded the motion.

Councilor Park introduced the resolution and explained why the funds were being transferred.

Councilor Hosticka pointed out that many had attended a meeting at the Beaverton Council Chamber about their centers program. Councilor McLain said one of the areas that Washington County was low on were safe bike lanes. She reminded that we can't forget the bike lanes but we needed to find the dollars to improve and increase bike lanes.

Councilor Park said Councilor McLain was correct. They needed good bike lanes on the west side. He congratulated Mayor Drake on how he approached this issue. They were using these dollars wisely. He urged support.

Vote:	Councilors Park, Hosticka, Burkholder, McLain, Monroe, Newman and Council President Bragdon voted in support of the motion. The vote was 7 aye, the motion passed.
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4.2 Resolution No. 04-3480, For the Purpose of Confirming the Council President's Appointment of Ray Leary to the Metropolitan Exposition Recreation Commission to Fill an Unexpired Term Through September 25, 2004 and to a full Four-Year Term Commencing September 26, 2004.

Motion:	Councilor Burkholder moved to adopt Resolution No. 04-3480.
Seconded:	Councilor Newman seconded the motion

Councilor Burkholder introduced Mr. Leary and explained the resolution. He spoke to the MERC facilities and the Commission oversight. He acknowledged Dan Trotter, Chair of the Commission who was in the audience as well. He explained Mr. Leary's credentials. Council President Bragdon said it was his pleasure to make this appointment. Ray Leary said good management was important. MERC played a visible role in the region. He was honored to serve as a commissioner.

Councilor Park spoke to Mr. Leary's credentials and noted that they had graduated the same year.

Councilor Burkholder urged support.

Vote:

Councilors Park, Hosticka, Burkholder, McLain, Monroe, Newman and Council President Bragdon voted in support of the motion. The vote was 7 aye, the motion passed.
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- 4.3 **Resolution No. 04-3481**, For the Purpose of Confirming the Council President's Appointment of Janice Marquis to the Metropolitan Exposition Recreation Commission.

Motion:	Councilor Monroe moved to adopt Resolution No. 04-3481.
Seconded:	Councilor McLain seconded the motion

Councilor Monroe said once again they had another outstanding candidate. He noted what her boss had said to him about Ms. Marquis. Councilor Monroe spoke to her credentials both professional and civic. He urged that Ms. Marquis work on the bike lane. He welcomed Ms. Marquis.

Ms. Marquis said she was honored to be here today and was looking forward to serving on the Commission. She had a love of managing facilities. She had recently finished up as Chair of the Portland Center for the Performing Arts (PCPA) Advisory Committee. She felt this was an exciting time to be involved with this group.

Council President Bragdon thanked Ms. Marquis for serving. He noted that he and Chair Trotter had met and were working on some facilities issues, which would be coming to Council in September.

Councilor McLain congratulated Ms. Marquis on her appointment. Her kind of expertise was needed. Councilor Monroe thanked both candidates for coming to the Council meeting.

Vote:

Councilors Park, Hosticka, Burkholder, McLain, Monroe, Newman, and Council President Bragdon voted in support of the motion. The vote was 7 aye, the motion passed.

5. **CHIEF OPERATING OFFICER COMMUNICATION**

Michael Jordan, Chief Operating Officer, said on Wednesday the retreat would be at Expo and lunch would be served.

6. **COUNCILOR COMMUNICATION**

Councilor Monroe announced that his daughter in law was in labor and he was going to be a grandfather soon.

Councilor McLain said this next week was the Washington County Fair. It was a free event and Metro was sharing a booth with the Tualatin River Keepers. She urged people to come out and see the booth.

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Councilor Newman said on July 23rd, 24th, and 25th was Old Time Fair in West Linn. In Milwaukie there was the River Front Blast this weekend.

Councilor Burkholder said this Sunday from 9am-1pm was the Columbia Slough paddle.

Council President Bragdon reminded Council about the three-day retreat next week on Strategic Planning.

7. ADJOURN

There being no further business to come before the Metro Council, Council President Bragdon adjourned the meeting at 2:27 p.m.

Prepared by

Chris Billington
Clerk of the Council

Metro Council Meeting

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ATTACHMENTS TO THE PUBLIC RECORD FOR THE MEETING OF JULY 22, 2004

Item	Topic	Doc Date	Document Description	Doc. Number
3.1	Minutes	July 15, 2004	Metro Council Minutes of July 15, 2004	072204c-01

Ordinance No. 04-1055, For the Purpose of Amending the Regional Solid Waste Management Plan to impose a Moratorium until December 31, 2005, on applications for and authorizations of new solid waste transfer stations within the Metro Region; and Declaring an Emergency.

First Reading

Metro Council Meeting
Thursday, August 5, 2004
Metro Council Chamber

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING THE	)	ORDINANCE NO. 04-1055
REGIONAL SOLID WASTE MANAGEMENT)	
PLAN TO IMPOSE A MORATORIUM UNTIL	)	Introduced by Chief Operating Officer
DECEMBER 31, 2005, ON APPLICATIONS FOR	)	Michael J. Jordan, with the concurrence of
AND AUTHORIZATIONS OF NEW SOLID	)	Council President David Bragdon
WASTE TRANSFER STATIONS WITHIN THE)	
METRO REGION; AND DECLARING AN)	
EMERGENCY)	

WHEREAS, on June 15, 2000, the Metro Council adopted Metro Ordinance No. 00-865, amending the Regional Solid Waste Management Plan to allow new transfer stations to be authorized where such transfer stations provide a benefit to the regional solid waste system; and,

WHEREAS, following adoption of such plan amendment, the Metro Council approved three new transfer station franchises to increase and improve access to such facilities; and,

WHEREAS, today approximately twice as much solid waste transfer capacity exists as is needed for the disposal of the region's municipal solid waste; and,

WHEREAS, the Metro Council is concerned with maintaining sufficient levels of tonnage to ensure efficient operations at all transfer stations, including the publicly owned facilities; and,

WHEREAS, it is in the public interest to ensure that the regional solid waste system operates efficiently; and,

WHEREAS, Metro is updating the Regional Solid Waste Management Plan and such update will involve facility regulation issues including the appropriate tonnage allocation among existing transfer stations, and the addition of new transfer facilities in the region.

WHEREAS, the region is well-served by current solid waste transfer capacity, and accordingly a moratorium on additions to the number of transfer facilities in the solid waste system should be enacted, and no new transfer facilities considered until after the completion of the update of the Regional Solid Waste Management Plan; now therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

SECTION 1. The provisions of amended "Solid Waste Facilities and Services: Transfer and Disposal System," located on pages 7-25 to 7-27 of the Regional Solid Waste Management Plan, are amended to include the following:

Notwithstanding any other provision in this Plan, Metro shall not accept or grant any application seeking authority to operate any new solid waste transfer station during the period commencing with the effective date of this Plan amending Ordinance and continuing until December 31, 2005.

SECTION 2. This Ordinance being necessary for the health, safety, and welfare of the Metro area, an emergency is declared to exist, and this Ordinance shall take effect immediately, pursuant to Metro Charter Section 39(1).

ADOPTED by the Metro Council this ____ day of _____, 2004.

David Bragdon, Council President

Attest:

Approved as to Form:

Recording Secretary

Daniel B. Cooper, Metro Attorney

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STAFF REPORT

IN CONSIDERATION OF ORDINANCE NO. 04-1055, FOR THE PURPOSE OF AMENDING THE REGIONAL SOLID WASTE MANAGEMENT PLAN TO IMPOSE A MORATORIUM UNTIL DECEMBER 31, 2005, ON APPLICATIONS FOR AND AUTHORIZATIONS OF NEW SOLID WASTE TRANSFER STATIONS WITHIN THE METRO REGION; AND DECLARING AN EMERGENCY

Date: July 14, 2004

Prepared by: Bill Metzler

SUMMARY

This report recommends that the Regional Solid Waste Management Plan (RSWMP) and Chapter 5.01 of the Metro Code be amended to implement a moratorium on new solid waste transfer stations in the Metro region until December 31, 2005.

With the RSWMP currently under review and its policies and practices scheduled to be updated in 2005, the Council has requested a review of system regulation issues, including: (a) allocating wet waste to facilities and haulers; (b) capping tonnage at all private transfer stations; (c) authorizing new transfer facilities; and (d) implementing host fees at all transfer stations.

The magnitude of this planning effort necessitates deferring consideration of new transfer station capacity until discussions with Metro Council and the RSWMP update process have both concluded.

A moratorium on new transfer capacity will not negatively impact the region's solid waste system. The region's transfer and disposal needs are well served by six Metro authorized transfer stations, and transfer capacity for wet waste exceeds current need by approximately 1.1 million tons.

BACKGROUND

When adopted in 1995, the Regional Solid Waste Management Plan (RSWMP) stated that the three existing transfer stations (Metro Central, Metro South and Forest Grove) had sufficient capacity to handle the future demand for transfer services. The recommended practice was to build no new transfer stations. A new transfer station could only be authorized upon a finding that (a) the regional waste reduction program had not performed as expected; or (b) regional growth was greater than expected, and service levels could not be maintained because of lack of capacity.

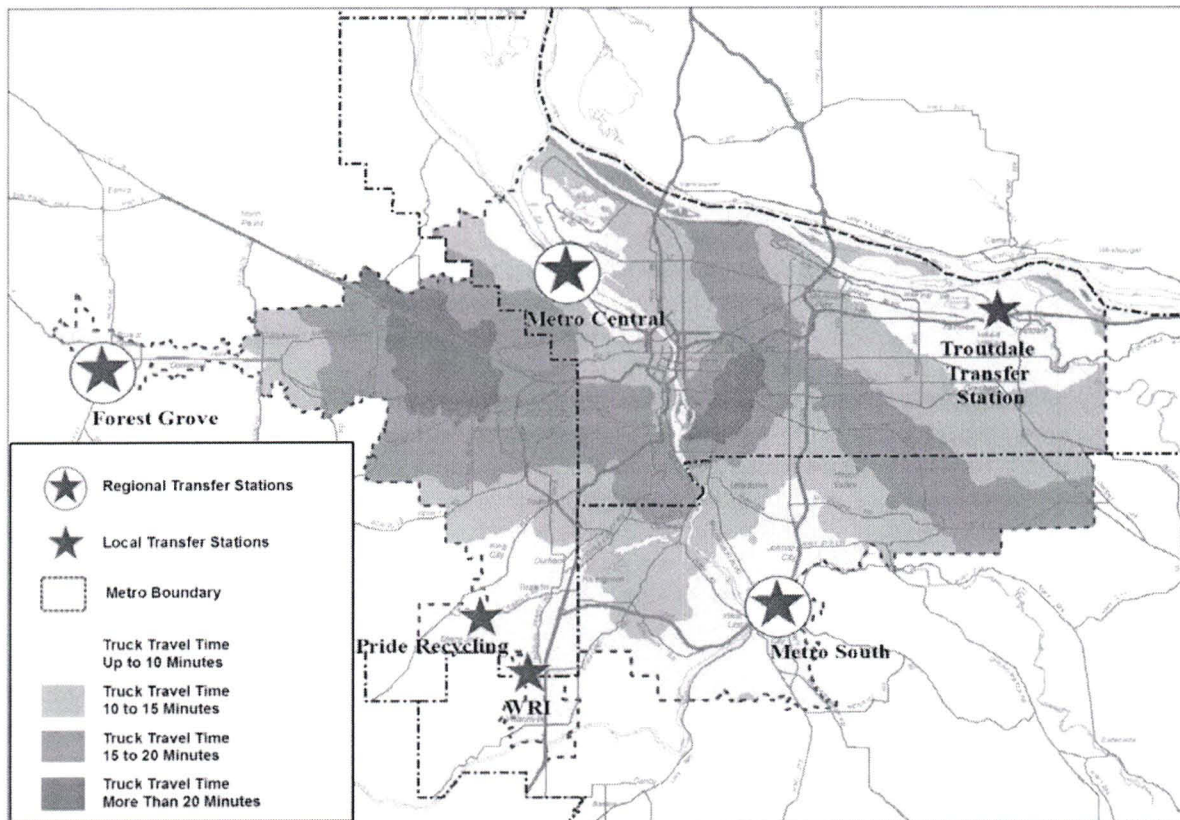
Five years later, in June 2000, the Metro Council amended the RSWMP transfer station provisions (Ordinance No. 00-865) to allow consideration of new transfer stations. The intent was to affirm a need for medium-scale facilities in the solid waste system, and to specify the level of public obligations and operating conditions that would be required of them. Three local transfer stations were authorized with a disposal tonnage cap of 50,000 tons per year, based on the total combined wet and dry waste disposed (excluding recovery).

In October 2001, the Council amended Chapter 5.01 of the Metro Code to establish service areas for transfer stations and revised the definition of a local transfer station (Ordinance No. 01-916C). In

addition, the Council removed the caps on dry waste to increase dry waste recovery, and increased the wet waste tonnage caps at local transfer stations to 65,000 tons per year.

Currently, the region is served by six transfer stations (three local and three regional transfer stations) providing access to disposal and recovery services. The location of the transfer stations are illustrated below in Figure A, with truck travel time zones estimated for each facility.

Figure A-Solid Waste Transfer Stations in the Metro Region with Truck Travel Time Zones*



* Mid-day truck travel time – based on data from Metro’s Travel Demand Model.

ANALYSIS/INFORMATION

During a June 22, 2004, Council Work Session to review a staff report on transfer station service areas, it was suggested that new transfer station applications be deferred until the system issues are resolved, and that the following short- and long-term approach to resolving solid waste system issues should be considered:

Short-term (next 3 months):

- establish a moratorium on new transfer station capacity until the transfer station service area, and related solid waste system issues have been resolved. Metro will defer consideration of any new transfer capacity until January 2006 to coincide with the conclusion of the RSWMP update;

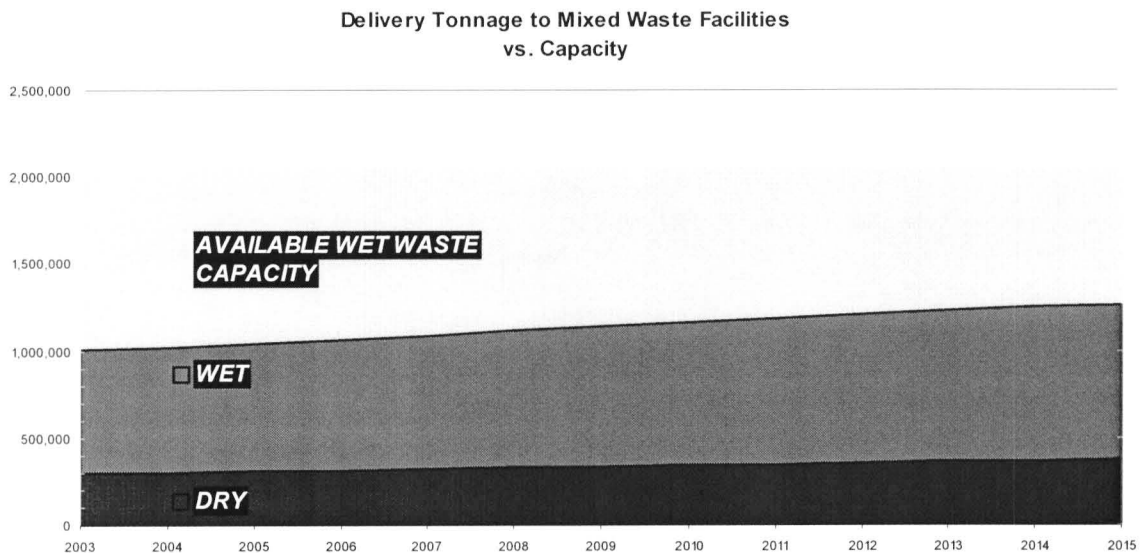
- resolve tonnage inequity issues attributable to service areas by legislatively authorizing a 5% tonnage cap adjustment to WRI, similar to the administrative increase granted to Troutdale Transfer Station.

Longer-term (next 18 months):

Undertake an examination of the solid waste system, including

- a) the public role in service provision and system regulation;
- b) allocation of wet-waste tonnage;
- c) instituting tonnage caps at all private transfer stations;
- d) review of policy for considering new transfer station capacity; and
- e) consideration of host fees and community enhancement grant programs for any community with a transfer station.

With a total of six solid waste transfer stations located in the Metro region, a moratorium on new transfer stations will not have adverse system impacts. The six transfer stations provide sufficient access and more than enough capacity. In April 2004, Metro issued its *Regional Transfer Capacity Analysis* report that addressed the question of how much capacity the region's solid waste facilities have to accept and load waste for transport to disposal sites service the region. The analysis concluded that (a) the region's transfer capacity for wet waste currently exceeds the needed capacity by approximately 1.1 million tons per year; and (b) by 2015, the transfer stations that service the region will still have 841,000 tons of unused capacity.



1. **Known Opposition.** Opposition is likely from haulers affiliated with an anticipated new transfer station applicant.
2. **Legal Antecedents.** The Regional Solid Waste Management Plan and Metro Code Chapter 5.01.
3. **Anticipated Effects.** Ordinance No. 04-1055 and Ordinance No. 04-1056, will amend the RSWMP and Chapter 5.01 of the Metro Code to implement a moratorium on new transfer stations in the Metro region until December 31, 2005, when the transfer station service area and associated wet-waste system issues are resolved in conjunction with the RSWMP update. Ordinance Nos. 04-1055 and 04-

1056, amending the RSWMP and Chapter 5.01 of the Metro Code are necessary for the immediate preservation of public health, safety and welfare by providing for the effective and comprehensive management of the regional solid waste system. An emergency is therefore declared to exist, and these two ordinances shall take effect immediately, pursuant to Metro Charter section 39(1).

4. **Budget Impacts.** There are no budget impacts.

RECOMMENDED ACTION

The Chief Operating Officer recommends approval of Ordinances Nos. 04-1055 and 04-1056.

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Ordinance No. 04-1056, For the Purpose of Amending Metro Code Chapter 5.01 to impose a Moratorium until December 31, 2005, on applications for and authorizations of new solid waste transfer stations within the Metro Region; and Declaring an Emergency.

First Reading

Metro Council Meeting
Thursday, August 5, 2004
Metro Council Chamber

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING METRO	)	ORDINANCE NO. 04-1056
CODE CHAPTER 5.01 TO IMPOSE A)	
MORATORIUM UNTIL DECEMBER 31, 2005, ON	)	Introduced by Chief Operating Officer
APPLICATIONS FOR AND AUTHORIZATIONS	)	Michael J. Jordan, with the concurrence of
OF NEW SOLID WASTE TRANSFER STATIONS	)	Council President David Bragdon
WITHIN THE METRO REGION; AND)	
DECLARING AN EMERGENCY)	

WHEREAS, today approximately twice as much solid waste transfer capacity exists as is needed for the disposal of the region's municipal solid waste; and,

WHEREAS, the Metro Council is concerned with maintaining sufficient levels of tonnage to ensure efficient operations at all transfer stations, including the publicly owned facilities; and,

WHEREAS, it is in the public interest to ensure that the regional solid waste system operates efficiently; and,

WHEREAS, Metro is updating the Regional Solid Waste Management Plan and such update will involve facility regulation issues including the appropriate tonnage allocation among existing transfer stations, and the addition of new transfer facilities in the region.

WHEREAS, a moratorium on additions to the number of transfer facilities in the solid waste system will provide the time necessary to determine such facility regulation issues; now therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

SECTION 1. Metro Code Section 5.01.060 is amended to read as follows:

5.01.060 Applications for Licenses or Franchises

(a) Applications for a Franchise or License or for renewal of an existing Franchise or License shall be filed on forms or in the format provided by the Chief Operating Officer.

(b) In addition to any information required on the forms or in the format provided by the Chief Operating Officer, all applications shall include a description of the Activities proposed to be conducted and a description of Wastes sought to be accepted.

(c) In addition to the information required on the forms or in the format provided by the Chief Operating Officer, applications for a License or Franchise shall include the following information to the Chief Operating Officer:

- (1) Proof that the applicant can obtain the types of insurance specified by the Chief Operating Officer during the term of the Franchise or License;
- (2) A duplicate copy of all applications for necessary DEQ permits and any other information required by or submitted to DEQ;

- (3) A duplicate copy of any closure plan required to be submitted to DEQ, or if DEQ does not require a closure plan, a closure document describing closure protocol for the Solid Waste Facility at any point in its active life;
- (4) A duplicate copy of any documents required to be submitted to DEQ demonstrating financial assurance for the costs of closure, or if DEQ does not require such documents, proof of financial assurance for the costs of closure of the facility;
- (5) Signed consent by the owner(s) of the property to the proposed use of the property. The consent shall disclose the property interest held by the Licensee or Franchisee, the duration of that interest and shall include a statement that the property owner(s) have read and agree to be bound by the provisions of Section 5.01.180(e) of this chapter if the License or Franchise is revoked or any License or Franchise renewal is refused;
- (6) Proof that the applicant has received proper land use approval; or, if land use approval has not been obtained, a written recommendation of the planning director of the local governmental unit having land use jurisdiction regarding new or existing disposal sites, or alterations, expansions, improvements or changes in the method or type of disposal at new or existing disposal sites. Such recommendation may include, but is not limited to a statement of compatibility of the site, the Solid Waste Disposal Facility located thereon and the proposed operation with the acknowledged local comprehensive plan and zoning requirements or with the Statewide Planning Goals of the Land Conservation and Development Commission; and
- (7) Identify any other known or anticipated permits required from any other governmental agency. If application for such other permits has been previously made, a copy of such permit application, and any permit that has been granted shall be provided.

(d) An application for a Franchise shall be accompanied by an analysis of the factors described in Section 5.01.070(f) of this chapter.

(e) Notwithstanding any other provision in this Section, the Chief Operating Officer shall not accept for filing any application for authority to operate a Transfer Station during the period commencing with the effective date of this Ordinance and continuing until December 31, 2005.

SECTION 2. Metro Code Section 5.01.070 is amended to read as follows:

5.01.070 Issuance of Franchise

(a) Applications for Franchises filed in accordance with Section 5.01.060 shall be reviewed by the Chief Operating Officer and are subject to approval or denial by the Metro Council.

(b) The Chief Operating Officer shall make such investigation concerning the application as the Chief Operating Officer deems appropriate, including the right of entry onto the applicant's proposed Franchise site.

(c) Upon the basis of the application, evidence submitted and results of the investigation, the Chief Operating Officer shall formulate recommendations regarding whether the applicant is qualified, whether the proposed Franchise complies with the Regional Solid Waste Management Plan, whether the proposed Franchise meets the requirements of Section 5.01.060, and whether or not the applicant has complied or can comply with all other applicable regulatory requirements.

(d) The Chief Operating Officer shall provide the recommendations required by subsection (c) of this section to the Council together with the Chief Operating Officer's recommendation regarding whether the application should be granted or denied. If the Chief Operating Officer recommends that the application be granted, the Chief Operating Officer shall recommend to the Council specific conditions of the Franchise.

(e) Subsequent to receiving the recommendation of the Chief Operating Officer, the Council shall issue an order granting or denying the application. The Council may attach conditions to the order or limit the number of franchises granted. If the Council issues an order to deny the application, such order shall be effective immediately.

(f) In determining whether to authorize the issuance of a Franchise, the Council shall consider, but not be limited by, the following factors:

- (1) Whether the applicant has demonstrated that the proposed Solid Waste Facility and authorized Activities will be consistent with the Regional Solid Waste Management Plan;
- (2) The effect that granting a Franchise to the applicant will have on the cost of solid waste disposal and recycling services for the citizens of the region;
- (3) Whether granting a Franchise to the applicant would be unlikely to unreasonably adversely affect the health, safety and welfare of Metro's residents;
- (4) Whether granting a Franchise to the applicant would be unlikely to unreasonably adversely affect nearby residents, property owners or the existing character or expected future development of the surrounding neighborhood;
- (5) Whether the applicant has demonstrated the strong likelihood that it will comply with all the requirements and standards of this chapter, the administrative rules and performance standards adopted pursuant to Section 5.01.132 of this chapter and other applicable local, state and federal laws, rules, regulations, ordinances, orders or permits pertaining in any manner to the proposed Franchise.

(g) The Council shall act to grant or deny a Franchise application within 120 days after the filing of a complete application. The deadline for the Council to act to grant or deny an

application may be extended as provided in this Section. If the Council does not act to grant or deny an application by the deadline for such action, the Franchise shall be deemed granted for the Solid Waste Facility or Disposal Site requested in the application, and the Chief Operating Officer shall issue a Franchise containing the standard terms and conditions included in other comparable franchises issued by Metro.

(h) At any time after the filing of a complete Franchise application the deadline for the Council to act to grant or deny the application shall be extended if:

- (1) The Council acts to extend the deadline for up to an additional 60 days, which the Council may do one time for any single application;
- (2) The applicant substantially modifies the application during the course of the review, in which case the 120 days review period for the Council to act shall be restarted as of the date Metro receives the applicant's modifications; or
- (3) The applicant and the Chief Operating Officer agree to extend the deadline for the Council to act for a specified period of time.

(i) An applicant may withdraw its application at any time prior to the Council's decision and may submit a new application at any time thereafter.

(j) If a request for a Franchise is denied, no new application for this same or substantially similar Franchise shall be filed by the applicant for at least six months from the date of denial.

(k) The term of a new or renewed Franchise shall be not more than five years.

(l) Notwithstanding any other provision in this Section, no application for authority to operate a Transfer Station shall be granted during the period commencing with the effective date of this Ordinance and continuing until December 31, 2005.

SECTION 3. This Ordinance being necessary for the health, safety, and welfare of the Metro area, an emergency is declared to exist, and this Ordinance shall take effect immediately, pursuant to Metro Charter Section 39(1).

ADOPTED by the Metro Council this ____ day of _____, 2004.

David Bragdon, Council President

Attest:

Approved as to Form:

Christina Billington, Recording Secretary

Daniel B. Cooper, Metro Attorney

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STAFF REPORT

IN CONSIDERATION OF ORDINANCE NO. 04-1056 FOR THE PURPOSE OF AMENDING METRO CODE CHAPTER 5.01 TO IMPOSE A MORATORIUM UNTIL DECEMBER 31, 2005, ON APPLICATIONS FOR AND AUTHORIZATIONS OF NEW SOLID WASTE TRANSFER STATIONS WITHIN THE METRO REGION; AND DECLARING AN EMERGENCY

Date: July 14, 2004

Prepared by: Bill Metzler

SUMMARY

This report recommends that the Regional Solid Waste Management Plan (RSWMP) and Chapter 5.01 of the Metro Code be amended to implement a moratorium on new solid waste transfer stations in the Metro region until December 31, 2005.

With the RSWMP currently under review and its policies and practices scheduled to be updated in 2005, the Council has requested a review of system regulation issues, including: (a) allocating wet waste to facilities and haulers; (b) capping tonnage at all private transfer stations; (c) authorizing new transfer facilities; and (d) implementing host fees at all transfer stations.

The magnitude of this planning effort necessitates deferring consideration of new transfer station capacity until discussions with Metro Council and the RSWMP update process have both concluded.

A moratorium on new transfer capacity will not negatively impact the region's solid waste system. The region's transfer and disposal needs are well served by six Metro authorized transfer stations, and transfer capacity for wet waste exceeds current need by approximately 1.1 million tons.

BACKGROUND

When adopted in 1995, the Regional Solid Waste Management Plan (RSWMP) stated that the three existing transfer stations (Metro Central, Metro South and Forest Grove) had sufficient capacity to handle the future demand for transfer services. The recommended practice was to build no new transfer stations. A new transfer station could only be authorized upon a finding that (a) the regional waste reduction program had not performed as expected; or (b) regional growth was greater than expected, and service levels could not be maintained because of lack of capacity.

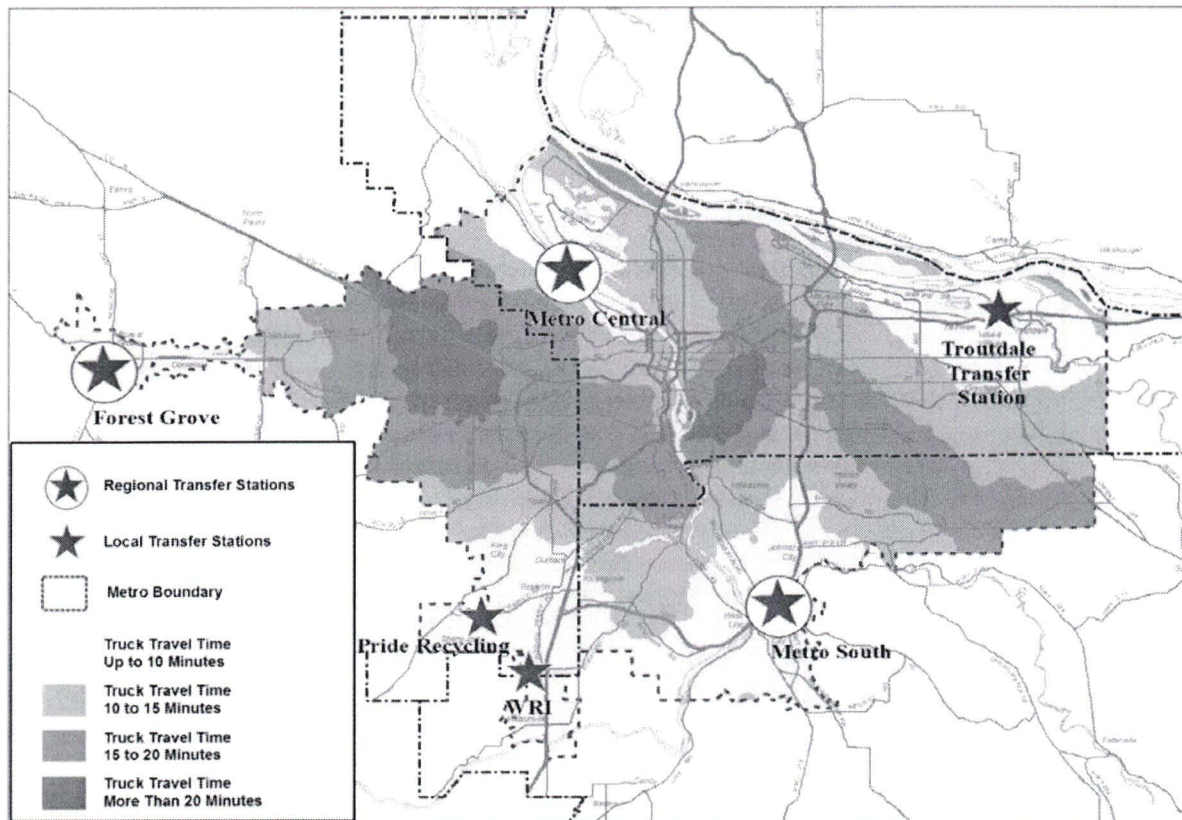
Five years later, in June 2000, the Metro Council amended the RSWMP transfer station provisions (Ordinance No. 00-865) to allow consideration of new transfer stations. The intent was to affirm a need for medium-scale facilities in the solid waste system, and to specify the level of public obligations and operating conditions that would be required of them. Three local transfer stations were authorized with a disposal tonnage cap of 50,000 tons per year, based on the total combined wet and dry waste disposed (excluding recovery).

In October 2001, the Council amended Chapter 5.01 of the Metro Code to establish service areas for transfer stations and revised the definition of a local transfer station (Ordinance No. 01-916C). In

addition, the Council removed the caps on dry waste to increase dry waste recovery, and increased the wet waste tonnage caps at local transfer stations to 65,000 tons per year.

Currently, the region is served by six transfer stations (three local and three regional transfer stations) providing access to disposal and recovery services. The location of the transfer stations are illustrated below in Figure A, with truck travel time zones estimated for each facility.

Figure A-Solid Waste Transfer Stations in the Metro Region with Truck Travel Time Zones*



* Mid-day truck travel time – based on data from Metro’s Travel Demand Model.

ANALYSIS/INFORMATION

During a June 22, 2004, Council Work Session to review a staff report on transfer station service areas, it was suggested that new transfer station applications be deferred until the system issues are resolved, and that the following short- and long-term approach to resolving solid waste system issues should be considered:

Short-term (next 3 months):

- establish a moratorium on new transfer station capacity until the transfer station service area, and related solid waste system issues have been resolved. Metro will defer consideration of new transfer capacity until January 2006 to coincide with the conclusion of the RSWMP update;

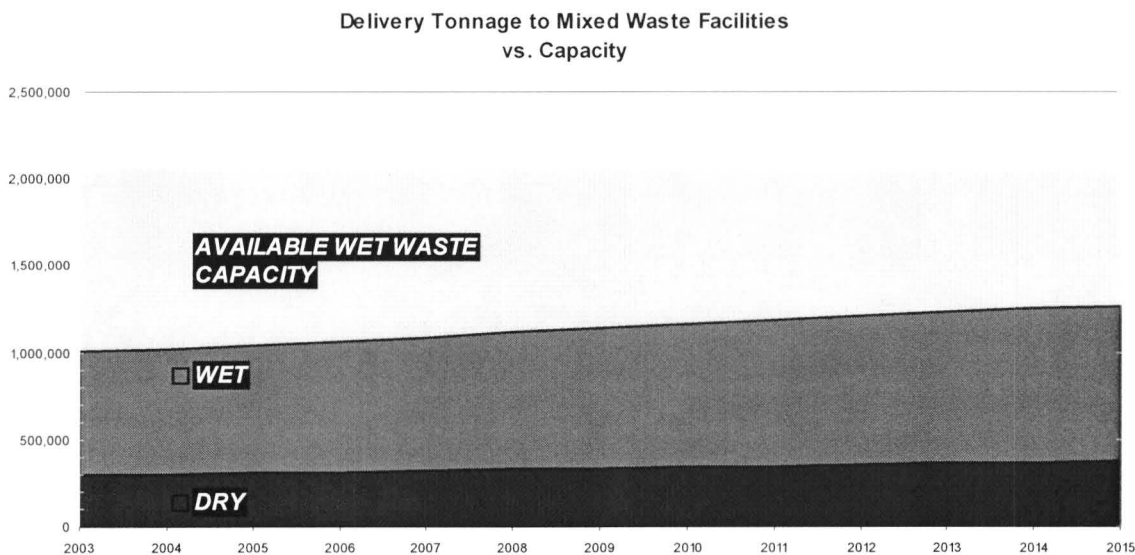
- resolve tonnage inequity issues attributable to service areas by legislatively authorizing a 5% tonnage cap adjustment to WRI, similar to the administrative increase granted to Troutdale Transfer Station.

Longer-term (next 18 months):

Undertake an examination of the solid waste system, including

- a) the public role in service provision and system regulation;
- b) allocation of wet-waste tonnage;
- c) instituting tonnage caps at all private transfer stations;
- d) review of policy for considering new transfer station capacity; and
- e) consideration of host fees and community enhancement grant programs for any community with a transfer station.

With a total of six solid waste transfer stations located in the Metro region, a moratorium on new transfer stations will not have adverse system impacts. The six transfer stations provide sufficient access and more than enough capacity. In April 2004, Metro issued its *Regional Transfer Capacity Analysis* report that addressed the question of how much capacity the region's solid waste facilities have to accept and load waste for transport to disposal sites service the region. The analysis concluded that (a) the region's transfer capacity for wet waste currently exceeds the needed capacity by approximately 1.1 million tons per year; and (b) by 2015, the transfer stations that service the region will still have 841,000 tons of unused capacity.



1. **Known Opposition.** Opposition is likely from haulers affiliated with an anticipated new transfer station applicant.
2. **Legal Antecedents.** The Regional Solid Waste Management Plan and Metro Code Chapter 5.01.
3. **Anticipated Effects.** Ordinance No. 04-1055 and Ordinance No. 04-1056, will amend the RSWMP and Chapter 5.01 of the Metro Code to implement a moratorium on new transfer stations in the Metro region until December 31, 2005, when the transfer station service area and associated wet-waste system issues are resolved in conjunction with the RSWMP update. Ordinance Nos. 04-1055 and 04-

1056, amending the RSWMP and Chapter 5.01 of the Metro Code are necessary for the immediate preservation of public health, safety and welfare by providing for the effective and comprehensive management of the regional solid waste system. An emergency is therefore declared to exist, and these two ordinances shall take effect immediately, pursuant to Metro Charter section 39(1).

4. **Budget Impacts.** There are no budget impacts.

RECOMMENDED ACTION

The Chief Operating Officer recommends approval of Ordinances Nos. 04-1055 and 04-1056.

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Agenda Item Number 7.1

Resolution No. 04-3474, For the Purpose of Allocating a Portion of the Multnomah County Local Share Funds from the Metro Open Spaces Bond in 2004.

Metro Council Meeting
Thursday, August 5, 2004
Metro Council Chamber

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF REALLOCATING A	)	RESOLUTION NO. 04-3474
PORTION OF THE MULTNOMAH COUNTY)	
LOCAL SHARE FUNDS FROM THE METRO	)	Introduced by Michael Jordan, Chief Operating
OPEN SPACES BOND FOR 2004	)	officer with the concurrence of David Bragdon,
		Metro Council President

WHEREAS, funding for Multnomah County Local Share Projects comes from Metro's Open Spaces, Parks and Streams bond measure, approved by the voters of the region in May 1995; and

WHEREAS, Multnomah County (the "County") was allocated \$3,401,545 to complete its local share projects; and

WHEREAS, Metro Regional Parks and Greenspaces Department administers the local share funds and projects for the County pursuant to Resolution No. 96-2285 ("For the Purpose of Authorizing a Phase II Intergovernmental Agreement with Multnomah County Regarding Parks and Other Facilities"); and

WHEREAS, the intergovernmental agreement transferring parks from the County to Metro and the Multnomah County local share intergovernmental agreement require that Metro must first consult with the Multnomah County Board and determine a local share project to be cost prohibitive, degraded, or otherwise infeasible before making any changes to the County's local share project list or reallocating funds, and then must obtain the approval of said changes by the Metro Council at a public hearing; and

WHEREAS, Metro has consulted with the Multnomah County Board, has determined the Springwater Corridor Improvement Projects to be completed, and now proposes to reallocate all the remaining local share funds dedicated to said project to the Smith & Bybee Lakes Wildlife Area Facility Improvements local share project; now therefore

BE IT RESOLVED that the Metro Council approves the reallocation of Multnomah County Local Share Project Funds from the Springwater Corridor Trail Improvement project to the Smith & Bybee Lakes Wildlife Area Facility Improvements local share project in the amount of \$43,421.42.

ADOPTED by the Metro Council this ____ day of _____, 2004.

David Bragdon, Council President

Approved as to form:

Daniel B. Cooper, Metro Attorney

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 04-3474 FOR THE PURPOSE OF REALLOCATING A PORTION OF THE MULTNOMAH COUNTY LOCAL SHARE FUNDS FROM THE METRO OPEN SPACES BOND IN 2004

Date: July 15, 2004

Presented by: Jim Desmond
Heather Nelson Kent

BACKGROUND

This Resolution requests Metro Council approval to reallocate the remaining Multnomah County local share portion of Metro's Open Spaces, Parks and Streams bond funds to the facilities project at Smith & Bybee Lakes Wildlife Area.

In January 1995, Metro Council referred a \$135.6 million bond measure (Resolution No. 95-2074-A, "For the Purpose of Changing the Election Date of the Submission to the Voters of a General Obligation Bond Indebtedness to Proceed with the Acquisition of Land for a Regional System of Greenspaces") to the qualified voters of the Metro district to appear on the May 16, 1995, ballot. A component of the bond measure included \$25 million to be spent by cities, counties and park districts on land acquisition and capital improvements. Metro, along with 25 other park providers, was eligible for these funds. To be eligible for the funding, projects had to be used for natural resource related activities and follow local share guidelines (Attachment 1). As part of the administration of the local share program, Metro requires that any change to a participating agency's project list be approved through a public process.

The intergovernmental agreement transferring ownership and management responsibilities of Multnomah County parks to Metro included an authorization by the County for Metro to administer the county's local share funds. Multnomah County was allocated \$3,401,545 to carry out its local share program. The county's original local share project list was developed in 1994 and amended by Metro Council in 1999, 2002 and 2003. The Metro Council is required to provide an opportunity for public testimony and formally approve any changes to the Multnomah County local share program priorities.

In partnership with the city of Portland, city of Gresham and other jurisdictions, part of Multnomah County's local share was allocated to and expended on Springwater Corridor Trail improvements. Identified projects were completed below budget, and \$43,421.42 remains in that account. Another local share project, the Smith & Bybee Lakes Wildlife Area Facility Development project, will be approximately \$50,000 short because of not receiving an allocation of *Jones v. Thorne* settlement proceeds from the US Army Corp of Engineers for this project, as originally anticipated. This resolution would transfer the remaining \$43,421.42 from the Springwater Corridor Trail Improvements project to the Smith & Bybee Lakes Wildlife Area Facility Development project.

Council President David Bragdon sent Multnomah County Chair Diane Linn a letter advising the Board of Metro's proposal to reallocate these Multnomah County local share funds. According to the agreement transferring parks from Multnomah County to Metro, Metro is responsible for administering the local share projects. Metro may, after consultation with the County Board, determine that projects are cost prohibitive, degraded, or otherwise infeasible and substitute other eligible projects as necessary. The county has made no comment regarding this proposal.

ANALYSIS/INFORMATION

1. Known Opposition

None

2. Legal Antecedents

Oregon Regulatory Statute (ORS 190.010) authorizes Metro to enter into intergovernmental agreements. Metro Code Chapter 2.02 establishes procedures for Metro to enter into intergovernmental agreements.

Metro Council Resolution No. 96-2285 (“For the Purpose of Authorizing a Phase II Intergovernmental Agreement With Multnomah County Regarding Parks and Other Facilities”) authorized the Phase II intergovernmental agreement (IGA) between Multnomah County and Metro transferring ownership and full responsibility for all Multnomah County parks, natural areas, golf courses, and the Expo Center to Metro. The IGA also authorized Metro to administer Multnomah County’s portion of the local share funds from the Open Spaces, Parks and Streams bond measure.

Resolution No. 99-2763 (“For the Purpose of Reallocating Multnomah County Local Share Funds Among Existing Projects”), Resolution No. 02-3147 (“For the Purpose of Reallocating a Portion of the Multnomah County Local Share Funds From the Metro Open Spaces Bond”), and Resolution No. 03-3313 (“For the Purpose of Reallocating Returning Multnomah County Local Share Portion of Metro Open Spaces Bond Funds”) establishes the current allocation of funds for Multnomah County local greenspace projects.

3. Budget Impact

The FY 2004-05 budget includes expenditure authority in the Open Spaces Fund to expend all of the remaining Local Share allocations, for Metro/Multnomah County and all other jurisdictions. Adequate appropriation authority exists, and these bond proceeds are restricted to approved Local Share projects only.

The CIP expenditures for the Smith & Bybee Lakes Wildlife Area Facility Development project are not impacted by this change. This resolution merely provides for an increase in Local Share funds allocated to the project, in recognition that one of the other funding sources will not be received.

This resolution does not establish an increase in fund transfer appropriation from the Open Spaces Fund to the Smith & Bybee Lakes Fund. Expenses related to this resolution can be expended directly from the Open Spaces Fund, similarly to how some other Metro/Multnomah County Local Share projects have been accounted.

RECOMMENDED ACTION

The Chief Operating Officer recommends adoption of Resolution No. 04-3474.

**GREENSPACES GENERAL OBLIGATION BOND MEASURE
LOCAL SHARE GUIDELINES**

Local governments will be entitled to receive a portion of the regional greenspaces bond measure funds based on the allocation formula in the Metropolitan Greenspaces Master Plan adopted in July 1992. Projects eligible for local share funding must meet the following criteria:

1. Eligible agency is a park provider as of July 1, 1991.
2. Funds must be expended on greenspaces related activities only including:

Acquisition

- Fee simple (or easement) to purchase regionally significant greenspaces and/or trail corridors identified in the Metropolitan Greenspaces Master Plan, and/or locally determined significant greenspaces and/or trail corridors.
- Costs associated with the acquisition of property.

Capital Improvements

- Restoration or enhancement of natural areas.
 - Trail construction.
 - Access facilities such as roads that are an integral part of the greenspace, parking, boat ramps, trail heads, Americans with Disabilities Act (ADA) requirements.
 - Public use facilities such as rest rooms, picnic tables, shelters, viewing blinds, water systems, camp sites, fishing piers, and associated appurtenances including signs, fences, security lighting and barbecues.
 - Environmental education facilities such as nature centers and interpretive displays.
3. The park provider will enter into an Intergovernmental Agreement (IGA) to be approved by the Metro Council and the governing board of the park provider. The IGA shall require signage and the project site in an appropriate location(s) to acknowledge Metro, the park provider and other project partners; funds from the bond measure shall not be used to replace local funds on the project; and funds from the bond measure should leverage other sources of revenue when possible.
 4. A list of local share projects with estimated costs, approved by the governing board of each jurisdiction shall be delivered to Metro no later than November 1, 1994 to be eligible for local share funding.
 5. Greenspace sites subject to local share funding will be maintained for intended recreational, natural area or trail activities.

Agenda Item Number 8.1

Resolution No. 04-3473, For the Purpose of Authorizing the Chief Operating Officer to Purchase Property on Hogan Butte in the East Buttes/Boring Lave Domes Target Area, Subject to Unusual Circumstances.

Executive Session

Metro Council Meeting
Thursday, August 5, 2004
Metro Council Chamber

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AUTHORIZING THE	)	RESOLUTION NO. 04-3473
CHIEF OPERATING OFFICER TO PURCHASE)	
PROPERTY ON HOGAN BUTTE IN THE EAST	)	Introduced by Councilor Rod Park
BUTTES / BORING LAVA DOMES TARGET)	
AREA, SUBJECT TO UNUSUAL)	
CIRCUMSTANCES)	

WHEREAS, in July 1992, Metro completed the Metropolitan Greenspaces Master Plan which identified a desired system of natural areas interconnected with greenways and trails; and

WHEREAS, at the election held on May 16, 1995, the Metro area voters approved the Open Spaces, Parks and Streams Bond Measure (Ballot Measure 26-26) which authorized Metro to issue \$135.6 million in general obligation bonds to finance land acquisition and capital improvements; and

WHEREAS, on January 9, 1996, via Resolution No. 96-2424 ("For the Purpose of Authorizing the Executive Officer to Purchase Property With Accepted Acquisition Guidelines as Outlined in the Amended Open Spaces Implementation Work Plan"), the Metro Council established the Open Spaces Acquisition Guidelines, which also provided for Metro Council approval of purchases subject to "unusual circumstances"; and

WHEREAS, on July 25, 1996, via Resolution No. 96-2361 ("For the Purpose of Approving a Refinement Plan For the East Buttes and Boring Lava Domes Target Area as Outlined in the Open Space Implementation Work Plan") the Metro Council adopted a refinement plan for the East Buttes / Boring Lava Domes Target Area, which included a confidential tax-lot specific map identifying priority properties for acquisition; and

WHEREAS, Ronald and Cheryl Haggerty are the owners of an approximate 28-acre parcel that lies in Tier I of the East Buttes / Boring Lava Domes Target Area ("the Haggerty Property"), as described in the attached Exhibit A, and have entered into an Agreement of Purchase and Sale with the City of Gresham; and

WHEREAS, Metro wishes to participate with the acquisition of the Haggerty Property contributing \$250,000 to the purchase price, subject to the following terms and conditions: (1) Metro shall receive unencumbered fee title to a 5.80-acre portion of the Haggerty Property currently known as Tax Lot 101, Section 22B, Township 1 South Range 3 East ("Tax Lot 101"); (2) the City of Gresham shall grant Metro an open space restrictive covenant over the Haggerty Property and a 29-acre piece of property the City of Gresham owns near Regner Road consisting of Tax Lots 00800 and 00900, Section 15C, Township 1 South, Range 3 East ("Regner Road Property"); (3) the City of Gresham shall make a good faith effort to provide or require off-street public trail access from the Haggerty Property through the proposed Deer Glen subdivision, connecting through to the Regner Road Property; and (4) the City of Gresham shall agree to manage the Haggerty Property and Regner Road Property for the preservation of open space natural area in accord with the Metropolitan Greenspaces Master Plan pursuant to an Intergovernmental Agreement with Metro; and

WHEREAS, on September 27, 2001, the Metro Council approved Resolution No. 01-3106 ("For The Purpose of Modifying the Open Spaces Implementation Work Plan and Open Spaces Acquisition Regional Target Area Refinement Plans to Direct Future Acquisitions of Properties That Satisfy Specific Identified Criteria"), modifying the Open Spaces Implementation Work Plan and Open Spaces Acquisition Regional Target Area Refinement Plans to require Metro Council approval of all acquisitions in target areas where minimum acreage goals have been met and to direct future acquisitions of properties that satisfy specific identified criteria; and

WHEREAS, Metro has already exceeded the minimum 545-acre goal established for the East Buttes / Boring Lava Domes Target Area, therefore contributing toward the purchase of the Haggerty Property requires formal Metro Council authorization pursuant to Council Resolution 01-3106; and

WHEREAS, Metro's participation in acquisition of the Haggerty Property meets the required criteria set forth in Council Resolution No. 01-3106 as follows: 1) the acquisition of the Haggerty Property will complete the acquisition of existing public ownership gaps in trails and greenways identified in the bond measure by connecting two parcels owned by the City of Gresham, and 2) the acquisition of the Haggerty Property benefits from a significant financial contribution from a local government or other outside partner; and

WHEREAS, because no appraisal will be performed on Tax Lot 101 to confirm its value, Metro's acquisition of said portion of the Haggerty Property will be subject to "unusual circumstances" and requires Metro Council approval; now therefore,

BE IT RESOLVED that the Metro Council authorizes the Chief Operating Officer to contribute \$250,000 toward the purchase price of the Haggerty Property as identified in Exhibit A, subject to the terms and conditions set forth above herein.

ADOPTED by the Metro Council this _____ day of _____, 2004.

David Bragdon, Council President

Approved as to Form:

Daniel B. Cooper, Metro Attorney

Exhibit A
Resolution No. 04-3473

Property Description

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 04-3473, FOR THE PURPOSE OF
AUTHORIZING THE CHIEF OPERATING OFFICER TO PURCHASE PROPERTY ON
HOGAN BUTTE IN THE EAST BUTTES / BORING LAVA DOMES TARGET AREA,
SUBJECT TO UNUSUAL CIRCUMSTANCES

Date: June 21, 2004

Prepared by: Nancy Chase
William Eadie

BACKGROUND

Resolution No. 04-3473 ("For the Purpose of Authorizing Metro to Contribute Toward the Purchase of Property on Hogan Butte in the East Buttes / Boring Lava Domes Target Area") requests authorization for Metro to participate with the City of Gresham in the acquisition of the 28-acre Haggerty property (hereafter referred to as "the Haggerty Property") in the East Buttes / Boring Lava Domes Target Area.

The Haggerty Property was identified as a "Tier I" acquisition priority in the confidential tax lot map approved in connection with the adoption of the refinement plan for the East Buttes / Boring Lava Domes Target Area, which outlined the land protection strategy for the target area, all pursuant to Resolution 96-2361 ("For the Purpose of Approving a Refinement Plan For the East Buttes and Boring Lava Domes Target Areas Outlined in the Open Space Implementation Work Plan"), adopted on July 25, 1996.

The Haggerty Property consists of 28 acres spanning the top of Hogan Butte and located directly adjacent to the developing area north of the Persimmon Golf Club. The scenic value of the Haggerty Property is high due to its panoramic and commanding views of Mount Jefferson, Mount Hood, Mount Adams, and Mount St. Helens. A potential trail connecting to public lands to the north would afford regional access to this rare vista. The view afforded by the Haggerty Property will attract users both locally and from throughout the Metro Area. Protecting the Haggerty Property from development will also provide an attractive natural visual backdrop, easily seen from Highway 26. Motorists looking up as they are driving into the City of Gresham from Mt. Hood will see the undeveloped slope and hilltop of the Haggerty Property. Blanketing this hillside with housing would change the impression as one approaches the City of Gresham. The Haggerty Property is comprised of three tax lots, one of which, Tax Lot 101, will be conveyed to Metro in exchange for Metro's cash contribution to the Haggerty Property acquisition.

The conditions of Metro's participation with the City of Gresham in the Haggerty Property acquisition are as follows:

- 1) The City of Gresham must provide sufficient additional funding to acquire the remainder of the 28-acre parcel.
- 2) The City of Gresham shall grant Metro an open space restrictive covenant over the Haggerty Property and a 29-acre piece of the City of Gresham property, commonly known as Tax Lots 00800 and 00900, Section 15C, Township 1 South, Range 3 East (the "Regner Road Property"), located near the Haggerty site across Regner Road.

- 3) As part of its land use and development approval of the proposed Deer Glen subdivision on natural area land purchased in part by the developer from the City of Gresham, Gresham shall make a good faith effort to obtain public trail access (off street) from the Haggerty Property parcel (north edge of parcel) through the Deer Glen parcel to connect to and allow reasonable and feasible trail access to the 29-acre parcel currently owned by the City west of Regner Road Property.
- 4) The City of Gresham shall agree to manage the Haggerty Property and the Regner Road Property for open space and park purposes pursuant to an Intergovernmental Agreement with Metro.

The purchase of the Haggerty Property requires Metro Council authorization pursuant to Resolution No. 01-3106 ("For the Purpose of Modifying the Open Spaces Implementation Work Plan and Open Spaces Acquisition Regional Target Area Refinement Plans to Direct Future Acquisitions of Properties That Satisfy Specific Identified Criteria"), adopted on September 27, 2001, because Metro has previously exceeded the minimum 545-acre goal established for the target area.

Acquisition of the Haggerty Property is recommended because the acquisition of the Haggerty Property would meet two of the criteria set forth in Resolution No. 01-3106:

- 1) "Complete the acquisition of existing public ownership gaps in trails and greenways identified in the bond measure." The purchase of this site would connect two parcels owned by the City of Gresham.
- 2) "Within existing target areas and parcels that meet the objectives otherwise set forth in this resolution, particular emphasis should be given to acquisitions that would either (a) have a significant financial contribution from a local government or other outside partner or ..." The financial contribution by local governments or other partners is significant, as Metro is being asked to contribute 21% of the purchase price.

Additionally, Metro's participation with the City of Gresham in the Haggerty Property acquisition requires Metro Council authorization due to unusual circumstances, as Metro will not be performing an appraisal report for Tax Lot 101 to confirm its value. Metro's share of the overall purchase price for the whole Haggerty Property is 21%, and the amount of land that Metro will take title to represents 21% of the total Haggerty Property acreage. A real estate appraisal of the whole Haggerty Property has previously been performed and has been reviewed and accepted by the City of Gresham. The Property is currently being acquired for an overall purchase price substantially below the market value estimated by the previous appraisal. This authorization assumes that the purchase will meet all other Acquisition Parameters of the Open Spaces Implementation Work Plan on issues such as environmental audit and title matters. This authorization does not cover any other "unusual circumstances" and to the extent any other "unusual circumstances" arise during the negotiation of a Purchase and Sale Agreement or during Metro's due diligence process, it is acknowledged that further Council review and authorization will be necessary.

The City of Gresham strongly supports this acquisition.

ANALYSIS/INFORMATION

1. **Known Opposition:** None.

2. **Legal Antecedents:** In May 1995, Metro area voters approved the Open Spaces, Parks and Streams Bond Measure that authorized Metro to issue \$135.6 million in general obligation bonds to finance land acquisition and certain park-related capital improvements. Metro Code 2.04.026 (a) (3) requires that the Chief Operating Officer obtain the authorization of the Metro Council prior to executing any contract for the purchase of real property. The Open Spaces Implementation Work Plan, adopted by the Metro Council via Resolution 96-2424 (“For The Purpose of Authorizing the Executive Officer to Purchase Property With Accepted Acquisition Guidelines as Outlined in the Amended Open Spaces Implementation Work Plan”), adopted on January 9, 1996, established acquisition parameters that authorize the Executive Officer to purchase property within the Council-approved target area refinement plan maps but requires further Metro Council approval of acquisition subject to “unusual circumstances.”

Via Resolution 96-2361 (“For The Purpose Of Approving A Refinement Plan For the East Buttes / Boring Lava Domes Target Area, As Outlined In The Open Space Implementation Work Plan”), the Metro Council adopted a refinement plan, which outlined a land protection strategy for the East Buttes / Boring Lava Domes. Through that resolution, the Metro Council also approved the target area refinement plan tax-lot specific map, which includes the subject Haggerty Property as a Tier I priority.

On September 27, 2001, the Metro Council adopted Resolution 01-3106, which modifies the Open Spaces Implementation Work Plan. Section B of Resolution 01-3106 requires Metro Council approval of new acquisitions in target areas where minimum acreage goals (as established in the bond measure) have been met.

3. **Anticipated Effects:** Metro will receive title to at least a 5.80-acre lot and Metro will receive title or a conservation easement over the Regner Road Property.

Acquisition of the Haggerty Property will protect an important forested butte in the East Buttes / Boring Lava Domes Target Area and leverage a significant amount of non-Metro funding.

4. **Budget Impacts:** Metro is being asked to contribute 21% (\$250,000) of the purchase price of which there are sufficient unrestricted regional bond funds available.

Stabilization, land banking and restoration costs will not be borne by Metro, as the Haggerty Property and Regner Road Property will be managed by the City of Gresham under an Intergovernmental Agreement with Metro.

RECOMMENDED ACTION

Chief Operating Officer Michael J. Jordan, with the concurrence of the Council President David Bragdon, recommends the adoption of Resolution No. 04-3473.

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Agenda Item Number 7.1

Resolution No. 04-3487, For the Purpose of Expressing Metro Council Approval of the Metro Regional Parks and Greenspaces Department's 2004 Application for a local government grant from Oregon State Parks.

Metro Council Meeting
Thursday, August 5, 2004
Metro Council Chamber

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF EXPRESSING METRO COUNCIL	)	RESOLUTION NO. 04-3487
APPROVAL OF THE METRO REGIONAL PARKS AND)	
GREENSPACES DEPARTMENT'S 2004 APPLICATION	)	Introduced by Chief Operating Officer
FOR A LOCAL GOVERNMENT GRANT FROM OREGON	)	Michael Jordan, with the concurrence of
STATE PARKS	)	Council President David Bragdon

WHEREAS, the Oregon State Parks and Recreation Department is accepting applications for its Local Government Grant Program, which distributes state lottery money funds for the public purposes of financing, among other projects, the protection and creation of parks and recreation areas. These include acquisition, development, and rehabilitation projects consistent with the outdoor recreation goals and objectives contained in the Statewide comprehensive Outdoor Recreation Plan and/or recreation elements of local comprehensive plans and local park master plans; and

WHEREAS, On December 6, 2001, the Metro Council adopted Resolution 01-3101B, "For the Purpose of Approving the Blue Lake Regional Park Economic Feasibility Study and Facility Design Concept"; and

WHEREAS, Metro Regional Parks and Greenspaces desires to participate in the Local Government Grant Program to the greatest extent possible, as a means of providing needed park and recreation improvements and enhancements at Metro's Blue Lake Regional Park in accordance with the Blue Lake Regional Park Economic Feasibility Study and Facility Design Concept; and

WHEREAS, grant funds would be used to implement the Design Facility Concept which includes the following recreational facility improvements: a Blue Lake Water Play Area consisting of a 30'x60' splash pad with non-slip surface, which will incorporate water jets, sprays, dumping buckets and other features. Water for the play area will come from a 750-gallons-per minute capacity reservoir system that utilizes purified and recycled water; and

WHEREAS, the Local Government Grant Program requires Metro matching funds, and matching funds of up to \$80,000 are included in the FY 2004-05 Regional Parks and Greenspaces Budget; and

WHEREAS, the Oregon State Parks and Recreation Department requires that the Metro Council approve Metro Regional Parks and Greenspaces application; now therefore

BE IT RESOLVED,

That the Metro Council hereby expresses its approval of the Metro Regional Parks and Greenspaces application for a Local Government Grant from the Oregon State Parks & Recreation Department for the purpose of implementing the Blue Lake Regional Park Economic Feasibility Study and Facility Design Concept, specifically the Blue Lake Water Play Area.

ADOPTED by the Metro Council this _____ day of _____, 2004

David Bragdon, Council President

Approved as to Form:

Daniel B. Cooper, Metro Attorney

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 04-3487 FOR THE PURPOSE OF EXPRESSING METRO COUNCIL APPROVAL OF THE METRO REGIONAL PARKS AND GREENSPACES DEPARTMENT'S 2004 APPLICATION FOR A LOCAL GOVERNMENT GRANT FROM THE OREGON PARKS

Date: July 30, 2004

Prepared by: Jim Desmond
Dan Kromer

BACKGROUND

The Oregon Parks and Recreation budget includes a Local Government Grant Program that was approved by the 1999 legislature. The grant program was created by initiative petition filed on March 11, 1998 and approved by voters on November 3, 1998. The adopted administrative rules for the distribution of funds require approval by resolution from the elected officials of the governing bodies for all applicants. The Oregon Parks and Recreation Commission adopted administrative rules for the distribution of state lottery funds to eligible local governments, and the process for establishing the priority order in which projects are funded.

This money is to be distributed for public purposes of financing the protection, repair, operation and creation of state parks, ocean shore and public beach access areas, historic sites and recreation areas. Projects eligible for funding assistance are acquisition, development, and rehabilitation projects consistent with the outdoor recreation goals and objectives contained in the Statewide comprehensive Outdoor Recreation Plan and/or recreation elements of local comprehensive plans and local park master plans.

ANALYSIS/INFORMATION

Metro is applying for funds to implement the Blue Lake Regional Economic Feasibility Study and Facility Design Concept for Blue Lake Regional Park, located near Gresham in the eastern portion of Multnomah County close to the Columbia River. The study and concept was adopted by Metro Council on December 6, 2001 following an extensive public participation process. Specifically, the project entails improvements to an already-developed area of the park, including installation of a 1,600 square foot water play area that will incorporate water jets, sprays, dumping buckets and other features. The water will come from an existing potable water system that has a built-in purification system and recycling feature. The objectives of providing a water play feature at Blue Lake Regional Park include improved public health and safety standards, a high-quality and fun playground-type recreation experience for young children and families and an inexpensive but unique activity for families of all income levels.

The water play area is intended to give small children a highly desirable and safe alternative to swimming in the lake itself. Installing new equipment that will help keep small children out of the lake is intended to assist in keeping the lake safe from bacterial or viral contamination.

- 1. Known Opposition:** None.
- 2. Legal Antecedents:** Via Metro Council Resolution No. 01-3101B, adopted December 6, 2001, "For the Purpose of Approving the Blue Lake Regional Park Economic Feasibility Study and Facility Design Concept," the Metro Council approved the study and concept in its entirety and project implementation.

Resolution 03-3337 "For the Purpose of Expressing Metro Council Approval of the Metro Regional Parks and Greenspaces Department's Application for a Local Government Grant from the Oregon Parks and Recreation Department" was adopted on May 29, 2003 (grant application was denied, however.)

3. **Anticipated Effects:** If Metro is awarded this grant, the funds will be used to implement the Blue Lake Park Water Play Area component of the Blue Lake Regional Park Economic Feasibility Study and Facility Design Concept.
4. **Budget Impacts:** The grant requires matching funds. Matching funds of up to \$80,000 are included in the FY 2004-05 Regional Parks and Greenspaces Budget. Operating costs are fairly minimal and will be absorbed under the existing operational budget for the park.
5. **Outstanding Questions:** None.

RECOMMENDED ACTION

Michael J. Jordan, Chief Operating Officer, with the concurrence of David Bragdon, Council President, recommends adoption of Resolution 04-3487.

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AUTHORIZING THE	)	RESOLUTION NO. 04-3473A
CHIEF OPERATING OFFICER TO PURCHASE)	
PROPERTY ON HOGAN BUTTE IN THE EAST	)	Introduced by Councilor Rod Park
BUTTES / BORING LAVA DOMES TARGET)	
AREA, SUBJECT TO UNUSUAL)	
CIRCUMSTANCES)	

WHEREAS, in July 1992, Metro completed the Metropolitan Greenspaces Master Plan which identified a desired system of natural areas interconnected with greenways and trails; and

WHEREAS, at the election held on May 16, 1995, the Metro area voters approved the Open Spaces, Parks and Streams Bond Measure (Ballot Measure 26-26) which authorized Metro to issue \$135.6 million in general obligation bonds to finance land acquisition and capital improvements; and

WHEREAS, on January 9, 1996, via Resolution No. 96-2424 ("For the Purpose of Authorizing the Executive Officer to Purchase Property With Accepted Acquisition Guidelines as Outlined in the Amended Open Spaces Implementation Work Plan"), the Metro Council established the Open Spaces Acquisition Guidelines, which also provided for Metro Council approval of purchases subject to "unusual circumstances"; and

WHEREAS, on July 25, 1996, via Resolution No. 96-2361 ("For the Purpose of Approving a Refinement Plan For the East Buttes and Boring Lava Domes Target Area as Outlined in the Open Space Implementation Work Plan"), the Metro Council adopted a refinement plan for the East Buttes / Boring Lava Domes Target Area, which included a confidential tax-lot specific map identifying priority properties for acquisition; and

WHEREAS, Ronald and Cheryl Haggerty are the owners of an approximate 28-acre parcel that lies in Tier I of the East Buttes / Boring Lava Domes Target Area, commonly known as Tax Lots 100 and 101, Section 22B, Township 1 South, Range 3 East, and Tax Lot 400, Section 22A, Township 1 South, Range 3 East ("the Haggerty Property"), more particularly described in the attached Exhibit A, and have entered into an Agreement of Purchase and Sale with the City of Gresham ("Gresham"); and

WHEREAS, Metro wishes to participate with the acquisition of the Haggerty Property, contributing \$250,000 to the purchase price, on condition that Gresham enter into an Intergovernmental Agreement with Metro containing the following terms and conditions: (1) at closing, Gresham shall convey to Metro an undivided 50% interest as a tenant in common in that portion of the Haggerty Property known as Tax Lot 100, Section 22B, Township 1 South, Range 3 East ("Tax Lot 100"); (2) the City of Gresham shall perform a minor partition of Tax Lot 100, within one year of closing, creating a new parcel having a fair market value proportional to Metro's contribution, such that Metro may receive unencumbered fee title to a portion of Tax Lot 100 as a legal lot of record; (3) the City of Gresham shall grant Metro an open space restrictive covenant over the Haggerty Property and a 29-acre piece of property the City of Gresham owns near Regner Road, consisting of Tax Lots 00800 and 00900, Section 15C, Township 1 South, Range 3 East ("Regner Road Property"); (4) the City of Gresham shall employ all legal means excepting condemnation to provide or require off-street public trail access from the Haggerty Property through the proposed Deer Glen subdivision, connecting through to the Regner Road Property; and (5) the City of Gresham shall agree to manage the Haggerty Property and Regner Road

Property for the preservation of open space natural area in accord with the Metropolitan Greenspaces Master Plan; and

WHEREAS, on September 27, 2001, the Metro Council approved Resolution No. 01-3106 ("For The Purpose of Modifying the Open Spaces Implementation Work Plan and Open Spaces Acquisition Regional Target Area Refinement Plans to Direct Future Acquisitions of Properties That Satisfy Specific Identified Criteria"), modifying the Open Spaces Implementation Work Plan and Open Spaces Acquisition Regional Target Area Refinement Plans to require Metro Council approval of all acquisitions in target areas where minimum acreage goals have been met and to direct future acquisitions of properties that satisfy specific identified criteria; and

WHEREAS, Metro has already exceeded the minimum 545-acre goal established for the East Buttes / Boring Lava Domes Target Area, therefore contributing toward the purchase of the Haggerty Property requires formal Metro Council authorization pursuant to Council Resolution 01-3106; and

WHEREAS, Metro's participation in acquisition of the Haggerty Property meets the required criteria set forth in Council Resolution No. 01-3106 as follows: the Haggerty Property acquisition benefits from a significant 79% financial contribution from the City of Gresham, a local government partner; and

WHEREAS, because no appraisal will be performed on Tax Lot 100 to confirm its value, Metro's acquisition of said portion of the Haggerty Property will be subject to "unusual circumstances" and requires Metro Council approval; now therefore,

BE IT RESOLVED that the Metro Council authorizes the Chief Operating Officer to contribute \$250,000 toward the purchase price of the Haggerty Property as identified in Exhibit A, subject to unusual circumstances and the terms and conditions set forth above herein.

ADOPTED by the Metro Council this _____ day of _____, 2004.

David Bragdon, Council President

Approved as to Form:

Daniel B. Cooper, Metro Attorney

Exhibit A
Resolution 04-3473A
Legal Description
Haggerty Property

PARCEL I:

Beginning at a point, said point being the Northeast corner of the Northwest quarter of Section 22, Township 1 South, Range 3 East, of the Willamette Meridian, in the City of Gresham, County of Multnomah and State of Oregon; thence West 210 feet; thence South parallel to the North-South center line of said section, a distance of 593 feet; thence West 171.8 feet; thence South parallel to the North-South center line of said section, a distance of 1157 feet; thence East 381.8 feet; thence North along the North-South center line of said section, a distance of 1750 feet to the point of beginning.

TOGETHER WITH a 50 foot wide easement for road purposes described as follows:

Beginning at the North one-quarter corner of said Section 22; thence South $1^{\circ}09'$ West along the one-half section line 693.00 feet; thence North $88^{\circ}51'$ West at right angles to the last mentioned course 90.36 feet to the true point of beginning of the tract herein to be described; thence from the above described true point of beginning continuing North $88^{\circ}51'$ West 71.39 feet; thence North $44^{\circ}23'30''$ West, 112.23 feet to a point of curvature; thence along the arc of a 45.12 foot radius curve to the left (the long chord of which bears North $76^{\circ}46'30''$ West 48.33 feet) an arc distance of 51.00 feet to a point of reverse curvature; thence along the arc of a 167.15 foot radius curve to the right (the long chord of which bears South $88^{\circ}13'$ West, 99.83 feet) an arc distance of 101.37 feet to a point of tangency; thence North $74^{\circ}24'30''$ West 283.89 feet to a point of curvature; thence along the arc of a 68.00 foot radius curve to the left (the long chord of which bears South $89^{\circ}02'37''$ West 38.73 feet) an arc distance of 39.28 feet to a point of tangency; thence South $72^{\circ}29'45''$ West 65.68 feet to a point of curvature; thence along the arc of a 790.00 foot radius curve to the left (the long chord of which bears South $63^{\circ}08'15''$ West 256.92 feet) an arc distance 258.06 feet to a point of tangency; thence South $53^{\circ}46'46''$ West 298.88 feet to a point of curvature; thence along the arc of 1754.00 foot radius curve to the left (the long chord of which bears South $50^{\circ}27'15''$ West 203.46 feet) an arc distance of 203.58 feet to a point of tangency; thence South $47^{\circ}07'45''$ West 65.01 feet to a point of curvature; thence along the arc of a 501.00 foot radius curve to the right (the long chord of which bears South $57^{\circ}33'30''$ West 181.38 feet) an arc distance of 182.39 feet to a point of tangency; thence South $67^{\circ}59'15''$ West 251.06 feet to a point in the Easterly line of Regner Road No. 1275; thence North $3^{\circ}44'15''$ East along said Easterly line 55.52 feet; thence North $67^{\circ}59'15''$ East 226.94 feet to a point of curvature; thence along the arc of a 451.00 foot radius curve to the left (the long chord of which bears North $57^{\circ}33'30''$ East 163.28 feet) an arc distance of 164.19 feet to a point of tangency; thence North $47^{\circ}07'45''$ East 65.01 feet to a point of curvature; thence along the arc of a 1804.00 foot radius curve to the right (the long chord of which bears North $50^{\circ}27'15''$ East 209.26 feet) an arc distance of 209.38 feet to a point of tangency; thence North $53^{\circ}46'45''$ East 298.88 feet to a point of curvature; thence along the arc of an 840.00 foot radius curve to the right (the long chord of which bears North $63^{\circ}08'15''$ East 273.18 feet) an arc distance of 274.40 feet to a point of tangency; thence North $72^{\circ}29'45''$ East 65.68 feet to a point of curvature; thence along the arc of a 118.00 foot radius curve to the right (the long chord of which bears North $89^{\circ}02'37''$ East 67.22 feet) an arc distance of 68.16 feet to a point of tangency; thence South $74^{\circ}24'30''$ East 283.89 feet to a point of curvature; thence along the arc of a 117.15 foot radius curve to the left (the long chord of which bears North $88^{\circ}13'$ East 69.97 feet) an arc distance of 71.05 feet to a point of reverse curvature; thence along the arc of a 95.12 foot radius curve to the right (the long chord of which bears South $76^{\circ}46'30''$ East 101.89 feet) an arc distance of 107.52 feet to a point of tangency; thence South $44^{\circ}23'30''$ East 163.20 feet to the true point of

(Continued)

LEGAL DESCRIPTION

beginning and evidenced by a Survey Map by Marx & Chase Surveyors, Inc., dated January 4, 1966 and referenced by Drawing No. 64-423.

EXCEPTING THEREFROM that portion conveyed to the City of Gresham by Warranty Deed recorded September 26, 1994 as Fee No. 94 142942, described as follows:

A tract of land situated in the Northeast quarter of the Northwest quarter of Section 22, Township 1 South, Range 3 East, of the Willamette Meridian, in the City of Gresham, County of Multnomah and State of Oregon, said tract being a portion of the tract of land conveyed to Louis E. Nelson and Jessie I. Nelson by Deed recorded September 9, 1966 in Book 525, Page 396, Records of Multnomah County, and a portion of the tract of land conveyed to Marshall F. Brown by Deed recorded July 22, 1988 in Book 2122, Page 366, Records of Multnomah County; said tract of land being more particularly described as follows:

Commencing at an iron rod set in the East line of said Northwest quarter of Section 22; said iron rod bears South along the North and South center line of said Section 22, a distance of 693.00 feet and is the Northeast corner of said Nelson Tract; thence South along said North and South center line and along the East line of said Nelson Tract, a distance of 249 feet, more or less, to the true point of beginning, from which the Southeast corner of the Nelson Tract bears South along said North and South center line, a distance of 168.00 feet; thence from said true point of beginning, Northwesterly a distance of 186 feet, more or less, to a point of 60 feet Easterly of, when measured at right angles to, the West line of said Nelson Tract; said point also lying 280 feet Northerly of, when measured at right angles to, the South line of said Nelson Tract; thence West at right angles to the North and South center line of Section 22 and parallel with the South line of the Nelson Tract, a distance of 233 feet, more or less, to a point in the West line of said Brown Tract; thence South along said West line of the Brown Tract 280 feet, more or less, to the point of intersection of said West line with the Westerly projected South line of said Nelson Tract; thence East along said Westerly projected South line and along said South line a distance of 381.8 feet, more or less, to a point in the North and South center line of Section 22, said point being the Southeast corner of said Nelson Tract; thence North along said North and South center line and along the East line of said Nelson Tract a distance of 168.00 feet to the true point of beginning.

PARCEL II:

A tract of land situated in the Northeast one-quarter of Section 22, Township 1 South, Range 3 East, of the Willamette Meridian, in the City of Gresham, County of Multnomah and State of Oregon, being more particularly described as follows:

Commencing at the Northeast corner of said Section 22; thence South $88^{\circ}22'57''$ West along the North line thereof, a distance of 25.00 feet to a point in the West right of way line of Hogan Road; thence South $0^{\circ}03'30''$ East along said right of way line, a distance of 792.44 feet to a point; thence South $89^{\circ}56'30''$ West, at right angles to said right of way line, a distance of 5.00 feet to the point of beginning of the tract of land herein to be described; thence South $0^{\circ}03'30''$ East parallel with said right of way line, a distance of 87.17 feet to a point; thence South $89^{\circ}56'30''$ West at right angles to said right of way line, a distance of 482.00 feet to a inch diameter iron rod; thence South $77^{\circ}36'48''$ West, a distance of 436.30 feet to a inch diameter iron rod; thence South $67^{\circ}17'49''$ West, a distance of 128.05 feet to a inch diameter iron rod; thence South $78^{\circ}24'35''$ West, a distance of 1650.80 feet to a point in the West line of said legal subdivision that bears South $0^{\circ}01'59''$ East 1280.00 feet from the

(Continued)

LEGAL DESCRIPTION

Northwest corner thereof; thence North 0°01'59" West along said West line, a distance of 884.00 feet to a point that bears South 0°01'59" East a distance of 396.00 feet from the Northwest corner of said legal subdivision; thence North 87°30'08" East a distance of 1804.61 feet to a inch diameter iron rod; thence North 29°59'27" East, a distance of 62.62 feet to a inch diameter iron rod; thence North 63°23'56" East, a distance of 288.94 feet to a inch diameter iron rod; thence South 65°37'57" East, a distance of 124.75 feet to a inch diameter iron rod; thence South 2°10'31" West, a distance of 481.48 feet to a point of tangent curvature; thence Southeasterly along the arc of a 50.00 foot radius curve to the left, through a central of 92°14'01", an arc distance of 80.49 feet (the chord bears South 43°56'30" East a distance of 72.08 feet) to a inch diameter iron rod at a point tangency that bears South 89°56'30" West at right angles to said West right of way line, a distance of 405.90 feet from the point of beginning; thence North 89°56'30" East a distance of 405.90 feet to the point of beginning.

EXCEPTING THEREFROM that portion conveyed to Jerry and Nancy Jaksich by Warranty Deed recorded June 28, 1988 in Book 2116, Page 298, described as follows:

A tract of land situated in the Northeast one-quarter of Section 22, Township 1 South, Range 3 East, of the Willamette Meridian, in the City of Gresham, County of Multnomah and State of Oregon, being more particularly described as follows:

Commencing at the Northeast corner of said Section 22; thence South 88°22'57" West along the North line of Section 22, a distance of 25.00 feet to a point on the West right of way line of Hogan Road; thence South 00°03'30" East along said right of way line, a distance of 792.44 feet to the Southeast corner of that tract of land conveyed to Helen Wall and E. Stanley Wall recorded on March 24, 1987 in Book 1989, Page 1398, Multnomah County Deed Records, and the true point of beginning of the description; thence South 00°03'30" East along said right of way, a distance of 87.00 feet to the Southeast corner of that tract of land conveyed to Ronald E. Haggerty and Cheryl A. Haggerty recorded on December 21, 1978 in Book 1318, Page 748, Multnomah County Deed Records; thence South 89°56'30" West at right angles to said right of way line, a distance of 487.00 feet to a inch diameter iron rod; thence South 77°36'48" West a distance of 436.00 feet to a inch diameter iron rod; thence South 67°17'49" West a distance of 128.05 feet to a inch diameter iron rod; thence South 78°24'35" West a distance of 688.47 feet; thence North 02°29'52" West at right angles to the most Northerly South line of the said Wall Tract a distance of 730.82 feet to said Northerly South line; thence North 87°30'08" East along said line a distance of 892.38 feet to a inch diameter iron rod; thence North 29°59'27" East along said Wall Tract, a distance of 62.62 feet to a inch diameter iron rod; thence North 63°23'58" East along said Wall Tract, a distance of 288.94 feet to a inch diameter iron rod; thence South 65°37'57" East along said Wall Tract, a distance of 124.75 feet to a inch diameter iron rod; thence South 02°10'31" West along said Wall Tract, a distance of 481.48 feet to a point of tangent curvature; thence Southeasterly 80.49 feet along the arc of a 50.00 foot radius circular curve to the left through a central angle of 92°14'01" (long chord bears South 43°56'30" East a distance of 72.08 feet) to a point of tangency; thence North 89°56'30" East a distance of 410.90 feet to the true point of beginning of the description.

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 04-3473A, FOR THE PURPOSE OF AUTHORIZING THE CHIEF OPERATING OFFICER TO PURCHASE PROPERTY ON HOGAN BUTTE IN THE EAST BUTTES / BORING LAVA DOMES TARGET AREA, SUBJECT TO UNUSUAL CIRCUMSTANCES

Date: August 4, 2004

Prepared by: Nancy Chase
William Eadie

BACKGROUND

Resolution No. 04-3473A ("For the Purpose of Authorizing Metro to Contribute Toward the Purchase of Property on Hogan Butte in the East Buttes / Boring Lava Domes Target Area") requests authorization for Metro to participate with the City of Gresham in the acquisition of the 28-acre Haggerty property (hereafter referred to as "the Haggerty Property") in the East Buttes / Boring Lava Domes Target Area.

The Haggerty Property was identified as a "Tier I" acquisition priority in the confidential tax lot map approved in connection with the adoption of the refinement plan for the East Buttes / Boring Lava Domes Target Area, which outlined the land protection strategy for the target area, all pursuant to Resolution 96-2361 ("For The Purpose of Approving A Refinement Plan For The East Buttes/ and Boring Lava Domes Target Area, as Outlined In the Open Space Implementation Work Plan"), adopted on July 25, 1996.

The Haggerty Property consists of 28-forested acres spanning the top of Hogan Butte and located directly adjacent to the developing area north of the Persimmon Golf Club. The scenic value of the Haggerty Property is high due to its panoramic and commanding views of Mount Jefferson, Mount Hood, Mount Adams, and Mount St. Helens. A potential trail connecting to public lands to the north would afford regional access to this rare vista. The view afforded by the Haggerty Property will attract users both locally and from throughout the Metro Area. Protecting the Haggerty Property from development will also provide an attractive natural visual backdrop, easily seen from Highway 26. Motorists looking up as they are driving into the City of Gresham from Mt. Hood will see the undeveloped slope and hilltop of the Haggerty Property. Blanketing this hillside with housing would change the impression as one approaches the City of Gresham. The Haggerty Property is comprised of three tax lots, Tax Lots 100 and 101, Section 22B, Township 1 South, Range 3 East, and Tax Lot 400, Section 22A, Township 1 South, Range 3 East. The City of Gresham will perform a minor partition of Tax Lot 100, Section 22B, Township 1 South, Range 3 East ("Tax Lot 100"), creating a new parcel having a fair market value roughly proportional to Metro's contribution, so that a legal lot of record may be conveyed to Metro in exchange for Metro's cash contribution to the Haggerty Property acquisition.

Metro's participation with the City of Gresham in the Haggerty Property acquisition would be conditioned on Gresham's entry into an Intergovernmental Agreement with Metro containing the following terms and conditions:

- 1) The City of Gresham must provide sufficient additional funding to acquire the remainder of the 28-acre Haggerty Property;
- 2) At closing, the City of Gresham shall convey to Metro an undivided 50% interest in Tax Lot 100, as a tenant in common with the City of Gresham, subject only to encumbrances approved by Metro.

Within a year thereafter, the City of Gresham shall perform a partition of Tax Lot 100, creating and conveying to Metro a new parcel having a fair market value roughly proportional to Metro's contribution, subject only to encumbrances approved by Metro;

3) The City of Gresham shall grant to Metro an open space restrictive covenant over the Haggerty Property and title or preservation rights to Metro of the 29-acre piece of the City of Gresham property, commonly known as Tax Lots 00800 and 00900, Section 15C, Township 1 South, Range 3 East (the "Regner Road Property"), it owns located near the Freeman Haggerty site across and directly west of Regner Road; to be managed and maintained held for open space and park purposes;

4) Gresham shall employ all legal means available excepting condemnation to obtain off street public trail access through the tentatively approved Deer Glen subdivision, to connect and allow reasonable and feasible trail access between the Haggerty Property and the 29-acre Regner Road Property;

5) The City of Gresham shall commit to manage the Haggerty Property and the Regner Road Property for open space-natural area park purposes, consistent with the Greenspaces Master Plans and Open Spaces Bond Measure 26-26.

The purchase of the Haggerty Property requires Metro Council authorization pursuant to Resolution No. 01-3106 ("For the Purpose of Modifying the Open Spaces Implementation Work Plan and Open Spaces Acquisition Regional Target Area Refinement Plans to Direct Future Acquisitions of Properties That Satisfy Specific Identified Criteria"), adopted on September 27, 2001, because Metro has previously exceeded the minimum 545-acre goal established for the target area.

Acquisition of the Haggerty Property is recommended because the acquisition of the Haggerty Property would meet one of the criteria set forth in Resolution No. 01-3106:

"Within existing target areas and parcels that meet the objectives otherwise set forth in this resolution, particular emphasis should be given to acquisitions that would either (a) have a significant financial contribution from a local government or other outside partner or ..." The financial contribution by local governments or other partners is significant, as Metro is being asked to contribute only 21% of the purchase price.

Additionally, Metro's participation with the City of Gresham in the Haggerty Property acquisition requires Metro Council authorization due to unusual circumstances, as Metro will not be performing a separate appraisal report for Tax Lot 100 to independently confirm its value. Metro's share of the overall purchase price for the entire Haggerty Property is 21%. A real estate appraisal of the Haggerty Property has previously been performed and has been reviewed and accepted by the City of Gresham. The Property is currently being acquired for an overall purchase price substantially below the market value estimated by the previous appraisal. This authorization assumes that the purchase will meet all other Acquisition Parameters of the Open Spaces Implementation Work Plan on issues such as environmental audit and title matters. This authorization does not cover any other "unusual circumstances" and to the extent any other "unusual circumstances" arise during the negotiation of a Purchase and Sale Agreement or during Metro's due diligence process, it is acknowledged that further Council review and authorization will be necessary.

The City of Gresham strongly supports this acquisition.

ANALYSIS/INFORMATION

Known Opposition: None.

Legal Antecedents: In May 1995, Metro area voters approved the Open Spaces, Parks and Streams Bond Measure that authorized Metro to issue \$135.6 million in general obligation bonds to finance land acquisition and certain park-related capital improvements. Metro Code 2.04.026 (a) (3) requires that the Chief Operating Officer obtain the authorization of the Metro Council prior to executing any contract for the purchase of real property. The Open Spaces Implementation Work Plan, adopted by the Metro Council via Resolution 96-2424 ("For The Purpose of Authorizing the Executive Officer to Purchase Property With Accepted Acquisition Guidelines as Outlined in the Amended Open Spaces Implementation Work Plan"), adopted on January 9, 1996, established acquisition parameters that authorize the Executive Officer to purchase property within the Council-approved target area refinement plan maps but requires further Metro Council approval of acquisition subject to "unusual circumstances."

Via Resolution 96-2361 ("For The Purpose Of Approving A Refinement Plan For the East Buttes / Boring Lava Domes Target Area, As Outlined In The Open Space Implementation Work Plan"), the Metro Council adopted a refinement plan, which outlined a land protection strategy for the East Buttes / Boring Lava Domes. Through that resolution, the Metro Council also approved the target area refinement plan tax-lot specific map, which includes the subject Haggerty Property as a Tier I priority.

On September 27, 2001, the Metro Council adopted Resolution 01-3106, which modifies the Open Spaces Implementation Work Plan. Section B of Resolution 01-3106 requires Metro Council approval of new acquisitions in target areas where minimum acreage goals (as established in the bond measure) have been met.

Anticipated Effects: Metro will receive a one half interest in the title to a 5 acre lot as a tenant in common with the City of Gresham, which will later be converted into a fee interest in a 2.50-acre lot. Metro will receive title or a conservation easement protecting the Regner Road Property, and the City of Gresham's best efforts to obtain a trail right of way connecting the two. Metro's participation will serve as a catalyst to the acquisition of the remainder of the Haggerty Property under a contract of sale.

Acquisition of the Haggerty Property will protect an important forested butte in the East Buttes / Boring Lava Domes Target Area and leverage a significant amount of non-Metro funding.

Budget Impacts: Metro is being asked to contribute 21% (\$250,000) of the Haggerty Property purchase price, for which there are sufficient unrestricted regional bond funds available.

Stabilization, land banking and restoration costs will not be borne by Metro, as the Haggerty Property and Regner Road Property will be managed by the City of Gresham under an Intergovernmental Agreement with Metro.

RECOMMENDED ACTION

Councilor Rod Park and Chief Operating Officer Michael J. Jordan, with the concurrence of the Council President David Bragdon, recommend the adoption of Resolution No. 04-3473A.